

REMARKS

This Application has been carefully reviewed in light of the Official Action mailed August 10, 2004. In order to advance prosecution of the present Application, Claims 1, 13, 25, 37, and 49 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

The drawings stand objected to under M.P.E.P. §608.02(g) for not including a legend "Prior Art" on FIGURES 1 and 2. Attached herewith is a corrected drawing sheet and a replacement drawing sheet that add the legend "PRIOR ART" to FIGURES 1 and 2. As for FIGURE 7d, Applicant respectfully submits that this figure does not include only those things known in the art. Only portions of FIGURE 7d are referred to in the Background section of the specification and further elaboration of the present invention with respect to FIGURE 7d is provided in the Detailed Description section of the specification beginning at page 34, line 14. Therefore, Applicant respectfully submits that the drawings are in accordance with M.P.E.P. §608.02(g).

Claims 1, 2, 4-10, 13, 14, 16-22, 25, 26, 28-34, 37, 38, 40-46, 49, 50, and 52-58 stand rejected under 35 U.S.C. §102(b) as being anticipated by Neumiller, et al. Independent Claims 1, 13, 25, 37, and 49 recite in general the ability to dynamically select at least one of a base station controller and at least one of a base transceiver station to perform a physical channel function. By contrast, the Neumiller, et al. patent is concerned with an anchor function for the call and is not concerned with the physical channel as provided by the claimed invention. Therefore, Applicant respectfully submits that Claims 1, 2, 4-10, 13, 14, 16-22, 25, 26, 28-34, 37, 38, 40-46, 49, 50, and 52-58 are not anticipated by the Neumiller, et al. patent.

Applicant notes with appreciation the allowability of Claims 3, 11, 12, 15, 23, 24, 27, 35, 36, 39, 47, 48, 51, 59, and 60 if amended into appropriate independent form. Claims 3, 11, 12, 15, 23, 24, 27, 35, 36, 39, 47, 48, 51, 59, and 60 have been amended into independent form as suggested by the Examiner. Therefore, Applicant respectfully submits that Claims 3, 11, 12, 15, 23, 24, 27, 35, 36, 39, 47, 48, 51, 59, and 60 are in condition for allowance.

With the presentation of fifteen new independent claims, an additional filing fee is due. Please charge Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. an amount of \$1320.00 to satisfy the excess independent claims fee of 37 C.F.R. §1.16(b).

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in black ink, appearing to read "Charles S. Fish", with a stylized flourish at the end.

Charles S. Fish

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